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**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Issued by the Department of Transportation September 6, 2001

NOTICE OF ACTION TAKEN -- DOCKET OST-2000-7513 - 45

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Gemini Air Cargo, Inc. filed 7/20/01 and supplemented 8/20/01 and 8/29/01 for:

XX Exemption from Order 2000-10-19; startup deadline:

By Order 2000-10-19, the Department granted Gemini Air Cargo, Inc. (a) an exemption to engage in scheduled foreign air transportation of property and mail between Miami, Florida, on the one hand, and Quito and Guayaquil, Ecuador, on the other, (b) an exemption to integrate such authority with Gemini's existing certificate and exemption authority, and (c) an allocation of three weekly frequencies (narrow-body aircraft or wide-body equivalent) for services in the United States-Ecuador market. Gemini's frequency award was subject to a 90-day startup condition as well as our standard 90-day dormancy condition. Under the award Gemini was required to begin service before January 21, 2001. Gemini has sought various extensions of the startup condition, owing to the fact that it had yet to receive an operating license from the Ecuadorian authorities, with Gemini's most recent requests seeking an extension through October 19, 2001. The Department has extended the startup deadline, the latest of which issued August 23, 2001, extending the startup period through September 7, 2001.¹

In granting Gemini a further partial extension through September 7, 2001, the Department required that Gemini submit no later than August 29, 2001, specific information of precisely what steps Gemini had undertaken to meet the requirements of the Ecuador government in order to receive an Ecuadorian operating license. (See Notice of Action Taken dated August 23, 2001 in this docket.) We stated that with the additional information, we expected to be in a better position to decide whether any further extension of the startup condition beyond September 7, 2001, is warranted. The Notice directed interested parties to file comments on Gemini's August 29 submission no later than August 31, 2001, and Gemini to file any response on any comments no later than September 4, 2001.

On August 29, 2001, Gemini submitted a further supplement to its original application for an extension of the startup deadline. In the latest supplement, Gemini states that it is continuing to work with its representatives in Ecuador and with government representatives to secure scheduled all-cargo authority. Gemini states that it will begin operating regular charter service to Ecuador on September 6, 2001, and that it plans to operate one charter flight per week thereafter until October 15, 2001, when it plans to operate two charter flights per week, and that these flights will convert to scheduled service as soon as permitted by the Government of Ecuador. Gemini identified the evidentiary items required by the Ecuador government
(See Reverse Side)

¹ See Notices of Action Taken, dated January 19, 2001, April 23, 2001, July 20, 2001, and August 23, 2001, in the present docket, for the history of Gemini's requests for extension of the startup condition.

for completion of the licensing process and Gemini's proposed time-line for submission of each item. Gemini also noted that it had dispatched its Senior Vice President of Marketing to Ecuador to facilitate completion of the requested evidentiary items, stating that its representative would remain until any and all uncertainties regarding the issuance of Gemini's Ecuadorian authority are resolved.

No answers were filed to Gemini's August 29, 2001 submission.

Applicant rep.: Moffett B. Roller (202) 331-3300 DOT analyst: Linda Senese (202) 366-2367

DISPOSITION

XX Granted, subject to conditions (see remarks below)

The above action was effective when taken: September 6, 2001, through October 19, 2001.

XX Action taken by: **Paul L. Gretch, Director**
Office of International Aviation

Remarks: We have decided to grant the balance of Gemini's pending requests for extension through October 19, 2001. Gemini's latest submission supports a finding that the carrier is currently making a good faith effort to secure the necessary license from Ecuador and, thus, that extension of the startup deadline is warranted.

We will, however, require Gemini to file on a weekly basis in the docket (and to serve on all parties in this proceeding) a letter apprising the Department of its progress toward meeting the evidentiary requirements of the Ecuador government, including whether it has met its target dates for completion of each evidentiary item, and, if not, an explanation as to why it did not. We also expect written notification in this docket (with service on all parties) of the operation of any charter flight (date, aircraft, and routing) until the carrier begins its scheduled operations, as well as notification and explanation by Gemini should it not operate any of the planned charter flights cited in its August 29 submission.²

Failure to meet these requirements may result in revocation of this waiver.

Under the authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the exemption was consistent with the public interest. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the action taken in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

² Gemini's authority to serve Ecuador is for the operation of scheduled flights and the frequencies allocated for operation of scheduled service are subject to a dormancy condition whereby failure to operate any frequency for a period of 90 days will result in such frequency reverting automatically to the Department for reallocation. The operation of charter flights does not negate the dormancy provision nor does it satisfy the startup condition for scheduled service.